

HOUSE BILL 407

D4, E1
HB 901/09 – JUD

11r0644
CF SB 747

By: **Delegates McComas, Aumann, Carter, DeBoy, Dumais, Frank, Frush, Haddaway–Riccio, K. Kelly, Lee, McDonough, B. Robinson, Simmons, and Waldstreicher**

Introduced and read first time: February 4, 2011
Assigned to: Judiciary

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 22, 2011

CHAPTER _____

1 AN ACT concerning

2 **Domestic Violence – ~~Cruelty Toward a Pet or Service Animal~~ Additional**
3 **Relief – Award of Temporary Possession of Pet**

4 FOR the purpose of authorizing a District Court Commissioner, in a certain interim
5 protective order, and a judge, in a temporary protective order or final protective
6 order, to ~~order a respondent to remain away from a certain pet or service~~
7 ~~animal, to refrain from cruelty or aggravated cruelty toward the pet or service~~
8 ~~animal, or in certain circumstances, to give the pet or service animal to a~~
9 ~~certain person; providing certain penalties for failure to comply with certain~~
10 ~~relief ordered in a certain interim protective order, temporary protective order,~~
11 ~~or final protective order~~ award temporary possession of any pet of a person
12 eligible for relief or a respondent; defining certain terms a certain term; and
13 generally relating to domestic violence ~~and cruelty toward a pet or service~~
14 ~~animal.~~

15 ~~BY repealing and reenacting, without amendments,~~
16 ~~Article – Criminal Law~~
17 ~~Section 10-601(a), (b), and (c), 10-604(a), and 10-606(a)~~
18 ~~Annotated Code of Maryland~~
19 ~~(2002 Volume and 2010 Supplement)~~

20 BY repealing and reenacting, without amendments,
21 Article – Family Law

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Section 4-501(a) and (l)
 2 Annotated Code of Maryland
 3 (2006 Replacement Volume and 2010 Supplement)

4 BY adding to
 5 Article – Family Law
 6 Section 4-501(m) ~~and (q)~~, 4-504.1(c)(9), 4-505(a)(2)(ix), and 4-506(d)(13)
 7 Annotated Code of Maryland
 8 (2006 Replacement Volume and 2010 Supplement)

9 BY repealing and reenacting, with amendments,
 10 Article – Family Law
 11 Section 4-501(m), (n), (o), (p), (q), and (r), 4-504.1(c)(7) and (8), 4-505(a)(2)(vii)
 12 and (viii), ~~and 4-506(d)(11) and (12), and 4-500(a)~~
 13 Annotated Code of Maryland
 14 (2006 Replacement Volume and 2010 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 16 MARYLAND, That the Laws of Maryland read as follows:

17 ~~Article – Criminal Law~~

18 ~~10-601.~~

19 ~~(a) In this subtitle the following words have the meanings indicated.~~

20 ~~(b) “Animal” means a living creature except a human being.~~

21 ~~(c) (1) “Cruelty” means the unnecessary or unjustifiable physical pain or~~
 22 ~~suffering caused or allowed by an act, omission, or neglect.~~

23 ~~(2) “Cruelty” includes torture and torment.~~

24 ~~10-604.~~

25 ~~(a) A person may not:~~

26 ~~(1) overdrive or overload an animal;~~

27 ~~(2) deprive an animal of necessary sustenance;~~

28 ~~(3) inflict unnecessary suffering or pain on an animal;~~

29 ~~(4) cause, procure, or authorize an act prohibited under item (1), (2), or~~
 30 ~~(3) of this subsection; or~~

~~(5) if the person has charge or custody of an animal, as owner or otherwise, unnecessarily fail to provide the animal with nutritious food in sufficient quantity, necessary veterinary care, proper drink, air, space, shelter, or protection from the weather.~~

~~10-606.~~

~~(a) A person may not:~~

~~(1) intentionally mutilate, torture, cruelly beat, or cruelly kill an animal;~~

~~(2) cause, procure, or authorize an act prohibited under item (1) of this subsection; or~~

~~(3) except in the case of self-defense, intentionally inflict bodily harm, permanent disability, or death on an animal owned or used by a law enforcement unit.~~

Article – Family Law

4-501.

(a) In this subtitle the following words have the meanings indicated.

(1) “Person eligible for relief” includes:

(1) the current or former spouse of the respondent;

(2) a cohabitant of the respondent;

(3) a person related to the respondent by blood, marriage, or adoption;

(4) a parent, stepparent, child, or stepchild of the respondent or the person eligible for relief who resides or resided with the respondent or person eligible for relief for at least 90 days within 1 year before the filing of the petition;

(5) a vulnerable adult; or

(6) an individual who has a child in common with the respondent.

(M) (1) “PET” MEANS A DOMESTICATED ANIMAL.

(2) “PET” DOES NOT INCLUDE LIVESTOCK.

[(m)] (N) (1) “Petitioner” means an individual who files a petition.

(2) “Petitioner” includes:

1 (i) a person eligible for relief; or

2 (ii) the following persons who may seek relief from abuse on
3 behalf of a minor or vulnerable adult:

4 1. the State's Attorney for the county where the child or
5 vulnerable adult lives, or, if different, where the abuse is alleged to have taken place;

6 2. the department of social services that has jurisdiction
7 in the county where the child or vulnerable adult lives, or, if different, where the abuse
8 is alleged to have taken place;

9 3. a person related to the child or vulnerable adult by
10 blood, marriage, or adoption; or

11 4. an adult who resides in the home.

12 [(n)] (O) "Residence" includes the yard, grounds, outbuildings, and common
13 areas surrounding the residence.

14 [(o)] (P) "Respondent" means the person alleged in the petition to have
15 committed the abuse.

16 ~~(q) "SERVICE ANIMAL" MEANS A GUIDE DOG, SIGNAL DOG, OR OTHER~~
17 ~~ANIMAL INDIVIDUALLY TRAINED TO DO WORK OR PERFORM TASKS FOR THE~~
18 ~~BENEFIT OF AN INDIVIDUAL WITH A DISABILITY, INCLUDING:~~

19 ~~(1) GUIDING INDIVIDUALS WITH IMPAIRED VISION;~~

20 ~~(2) ALERTING INDIVIDUALS WITH IMPAIRED HEARING TO AN~~
21 ~~INTRUDER OR SOUNDS;~~

22 ~~(3) PROVIDING MINIMAL PROTECTION OR RESCUE WORK;~~

23 ~~(4) PULLING A WHEELCHAIR; OR~~

24 ~~(5) FETCHING DROPPED ITEMS.~~

25 [(p)] ~~(R)~~ (Q) "Temporary protective order" means a protective order issued
26 under § 4-505 of this subtitle.

27 [(q)] ~~(S)~~ (R) "Victim" includes a person eligible for relief.

28 [(r)] ~~(T)~~ (S) "Vulnerable adult" has the meaning provided in § 14-101(q) of this
29 article.

1 4-504.1.

2 (c) An interim protective order may:

3 (7) order the respondent to remain away from the place of
4 employment, school, or temporary residence of a person eligible for relief; [or]

5 (8) order the respondent to remain away from the residence of any
6 family member of a person eligible for relief; OR

7 ~~(9) IF THE PERSON ELIGIBLE FOR RELIEF OR A FAMILY MEMBER~~
8 ~~OF THE PERSON ELIGIBLE FOR RELIEF HAS A PET OR SERVICE ANIMAL OR THE~~
9 ~~RESPONDENT HAS POSSESSION OF A PET OR SERVICE ANIMAL OF THE PERSON~~
10 ~~ELIGIBLE FOR RELIEF OR OF A FAMILY MEMBER OF THE PERSON ELIGIBLE FOR~~
11 ~~RELIEF, ORDER THE RESPONDENT TO:~~

12 ~~(i) REMAIN AWAY FROM THE PET OR SERVICE ANIMAL;~~

13 ~~(ii) REFRAIN FROM CRUELTY OR AGGRAVATED CRUELTY~~
14 ~~TOWARD THE PET OR SERVICE ANIMAL AS PROHIBITED UNDER § 10-604(A) OR §~~
15 ~~10-606(A) OF THE CRIMINAL LAW ARTICLE; OR~~

16 ~~(iii) IF THE RESPONDENT HAS POSSESSION OF THE PET OR~~
17 ~~SERVICE ANIMAL, GIVE THE PET OR SERVICE ANIMAL TO THE PERSON ELIGIBLE~~
18 ~~FOR RELIEF, TO A FAMILY MEMBER OF THE PERSON ELIGIBLE FOR RELIEF, OR~~
19 ~~TO A SUITABLE THIRD PARTY AWARD TEMPORARY POSSESSION OF ANY PET OF~~
20 ~~THE PERSON ELIGIBLE FOR RELIEF OR THE RESPONDENT.~~

21 4-505.

22 (a) (2) The temporary protective order may order any or all of the
23 following relief:

24 (vii) award temporary custody of a minor child of the person
25 eligible for relief and the respondent; [and]

26 (viii) order the respondent to surrender to law enforcement
27 authorities any firearm in the respondent's possession, and to refrain from possession
28 of any firearm, for the duration of the temporary protective order if the abuse
29 consisted of:

30 1. the use of a firearm by the respondent against a
31 person eligible for relief;

1 ~~(I) REMAIN AWAY FROM THE PET OR SERVICE ANIMAL;~~

2 ~~(II) REFRAIN FROM CRUELTY OR AGGRAVATED CRUELTY~~
 3 ~~TOWARD THE PET OR SERVICE ANIMAL AS PROHIBITED UNDER § 10-604(A) OR §~~
 4 ~~10-606(A) OF THE CRIMINAL LAW ARTICLE; OR~~

5 ~~(III) IF THE RESPONDENT HAS POSSESSION OF THE PET OR~~
 6 ~~SERVICE ANIMAL, GIVE THE PET OR SERVICE ANIMAL TO THE PERSON ELIGIBLE~~
 7 ~~FOR RELIEF, TO A FAMILY MEMBER OF THE PERSON ELIGIBLE FOR RELIEF, OR~~
 8 ~~TO A SUITABLE THIRD PARTY AWARD TEMPORARY POSSESSION OF ANY PET OF~~
 9 ~~THE PERSON ELIGIBLE FOR RELIEF OR THE RESPONDENT.~~

10 ~~4-509.~~

11 ~~(a) A person who fails to comply with the relief granted in an interim~~
 12 ~~protective order under § 4-504.1(e)(1), (2), (3), (4)(i), (7), [or] (8), OR (9) of this~~
 13 ~~subtitle, a temporary protective order under § 4-505(a)(2)(i), (ii), (iii), (iv), (v), [or]~~
 14 ~~(viii), OR (IX) of this subtitle, or a final protective order under § 4-506(d)(1), (2), (3),~~
 15 ~~(4), [or] (5), OR (13), or (e) of this subtitle is guilty of a misdemeanor and on conviction~~
 16 ~~is subject, for each offense, to:~~

17 ~~(1) for a first offense, a fine not exceeding \$1,000 or imprisonment not~~
 18 ~~exceeding 90 days or both; and~~

19 ~~(2) for a second or subsequent offense, a fine not exceeding \$2,500 or~~
 20 ~~imprisonment not exceeding 1 year or both.~~

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 22 October 1, 2011.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.